

DOCUMENT RESUME

ED 164 221

RC 011 058

TITLE Bureau of Indian Affairs Proposed Legislation for the 96th Congress.
 INSTITUTION National Congress of American Indians, Washington, D.C.
 PUB DATE 78
 NOTE 11p.
 EDRS PRICE MF-\$0.83 HC-\$1.67 Plus Postage.
 DESCRIPTORS *American Indians; Confidentiality; Education; *Federal Legislation; Financial Policy; Governance; Land Use; Legal Responsibility; *Reservations (Indian); Self Determination; Taxes; *Tribes; Water Resources
 IDENTIFIERS Bureau of Indian Affairs; Congress 96th; *Federal Indian Relationship; Tribal Government; Tribal Recognition; *Trust Lands

ABSTRACT

These 27 legislation proposals by the Bureau of Indian Affairs (BIA) for the 96th Congress deal largely with Indian lands, federal/state government-tribal relationships, and jurisdiction. Status of proposals, costs, and brief descriptions are contained in this report. Specific topics include: amendments to Indian Financing Act of 1974; protection of information about Indian resources/assets; consolidation of tribal landholdings; Indian trust lands as private property for Environmental Protection Act purposes; adjudication of Indian water rights; trespass of livestock and fishing, hunting, trapping, and other trespassing on Indian lands; long-term leasing authority for trust lands; land ownership dispute between Crow and Northern Cheyenne; taxation of Omaha and Winnebago trust lands; ownership of certain lands on Colville Indian Reservation; exclusion of some trust lands from Voyageurs National Park; trade regulations on reservations; termination of federally recognized tribes; civil, criminal jurisdiction; taxation of tribes; deposits insurance; time deadlines on tribal planning; eligibility of tribes for excess federal property; authority of BIA law enforcement personnel; amendments to P.L. 93-638; tribal ownership of federal facilities; welfare/scholarship assistance; concurrent tribal jurisdiction over offenses now under federal jurisdiction; repeal of Act of January 24, 1928. (RS)

 * Reproductions supplied by EDRS are the best that can be made *
 * from the original document. *

ED164221



THE NATIONAL CONGRESS OF AMERICAN INDIANS
1430 K. St. NW, WASHINGTON, D.C. 20005

**BUREAU OF INDIAN AFFAIRS
PROPOSED LEGISLATION
FOR THE
96TH CONGRESS ***

1978

"PERMISSION TO REPRODUCE
MATERIAL HAS BEEN GRANTED BY
ED BY

C. Calum No 11

TO THE EDUCATIONAL RESEARCH
INFORMATION CENTER (EDUCATIONAL
USERS OF THE ERIC SYSTEM) AND

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY.

*It should be noted that this is merely proposed legislation from the BIA as a response to the request from the OMB to all agencies. It is not the Interior Department's policy, nor has it been approved by OMB. Historically very little action is even taken on proposed legislation.

RC 011058

- 96-1 To amend the Indian Financing Act of 1974, and for other purposes. This bill would extend the authorities in the Act, amend the interest subsidy provisions to correct unintentional first year advance obligations for all future subsidy payments, authorize annual funding to meet costs of the Loan Guaranty Program, and other amendments.
- Cost: \$10 million for grants annually; and up to \$10 million annually for interest subsidy costs beginning FY 1980.
- Status: Departmental proposal being prepared.
-
- 96-2 To protect information held by a Federal agency which relates to the natural resources or other assets of Indian tribes and individuals. The agencies of the United States possess information relating to Indian owned assets which if made public would detrimentally affect Indians' competitive position in the marketplace. This proposal would exempt such information from disclosure under the Freedom of Information Act.
- Cost: No cost involved.
- Status: The Interior Department's proposed report on S. 2773 in the 95th Congress reflects the current BIA position.
-
- 96-3 To authorize the consolidation of tribal landholdings through purchase, sale, and exchange of lands within reservations; authorize tribal acquisition of trust lands with fractional or multiple ownership, and for other purposes. Many tribes have the above authorities through a number of different statutes. This proposal would provide for tribes not having one or more of these authorities under present law to elect to be covered by one or more of the authorities provided in this proposed bill. A tribe's election to be so covered would be by action of the tribal council or referendum election of the adult tribal members and would be subject to approval by the Secretary of the Interior. This proposal would avoid a number of separate proposals for individual tribes.
- cost: No additional cost anticipated.
- Status: Interior Department report of August 27, 1976, to House Interior Committee on similar bill, H.R. 14417, 94th Congress.

96-4

To provide for treatment of Indian trust lands as private rather than governmental property for purposes of the Environmental Protection Act. This proposal would relieve Indian trust lands from procedural burdens which impair the ability of the tribe to realize income from its use. Tribal trust lands are now at a competitive disadvantage in relation to private lands because of environmental impact procedural requirements. The proposal would exclude from the governmental actions to which the EPA applies those actions of BIA employees as agents of the trustee for Indian lands and resources held in trust by the United States.

Cost: No additional cost anticipated.

Status: Proposal to be drafted.

96-5

To provide for adjudication of Indian water rights only in Federal Courts. This proposal would provide for the adjudication of cases involving Indian water rights in Federal courts and would preclude action by State courts affecting Indian water rights.

Cost: No additional cost anticipated.

Status: Proposal being prepared.

96-6

To revise outdated and ineffective statutory provisions relating to the trespass of livestock on Indian lands. This proposal would eliminate the archaic flat penalty under current law and substitute a civil penalty based on current grazing rates in the locality. It also will permit tribal as well as Secretarial enforcement in either Federal District Court or in a Tribal Court of record. Further, it will provide for impoundment of trespassing livestock. Penalties collected and the proceeds of the sale of unclaimed trespassing livestock would be paid to the landowner, after deduction of the BIA's costs of caring for the livestock while impounded.

Cost: No additional cost anticipated.

Status: Introduced in 94th Congress as S. 2235 based on the Interior Department's July 18, 1975 proposal to the Congress.

- 96-7 Pertaining to fishing, hunting, or trapping and other trespassing in Indian country. This bill would increase the penalties for hunting, fishing, or trapping without permission on Indian lands and extend the penalties to all trespassing on Indian lands. It also provides that the hunting, fishing, or trapping gear of violators may be confiscated without a warrant.
- Cost: No cost involved.
- Status: Proposal being prepared.
-
- 96-8 To make long-term leasing authority (50 to 99 years) available for all trust lands. The 99 year tenure of a particular lease of tribal trust lands, based on a justified and sound proposal, would be subject to approval by tribal governing body or referendum as well as by the Secretary.
- Cost: No cost involved.
- Status: Proposal being prepared.
-
- 96-9 To provide compensation to the Crow Tribe of Indians, Montana, for certain lands within their Reservation, for the validation of titles, and for other purposes. This proposal refers to the 107th meridian or ownership dispute of lands lying between the Crow and Northern Cheyenne Reservations.
- Cost: Estimated cost is over \$1 million.
- Status: Proposal being prepared.
-
- 96-10 Relating to taxation of Omaha and Winnebago trust lands. This proposal would repeal the two statutory provisions which provide that individually owned trust land on the Omaha and Winnebago Reservations shall be subject to assessment for ad valorem taxes by the local taxing officials.
- Cost: No cost.
- Status: Proposal being drafted.

- 96-11 To amend certain provisions of the Act of July 24, 1956, relating to the restoration of tribal ownership of certain lands upon the Colville Indian Reservation Washington. This proposal will amend the Act of July 24, 1956, by deleting the provision requiring that the acquisition of any non-Indian land under the tribal land restoration program be subject to approval by the local Board of County Commissioners.
- Cost: No cost.
- Status: Proposal being prepared.
-
- 96-12 To exclude certain Indian trust lands from the Voyageurs National Park in Minnesota. Two tracts of Indian trust land, one tribally owned, the other individually owned by several Indians, are located within the boundaries of the Voyageurs National Park. The Indians have requested legislation to exclude the two tracts for continued use by the owners.
- Cost: No cost.
- Status: Proposal being prepared.
-
- 96-13 To revise laws relating to the regulation of trade on Indian reservations. Tribes would be authorized to either (1) suspend the Federal statutory regulation of traders and provide for exclusive regulation under tribal ordinances or (2) to enforce the Federal statutes and regulations.
- Cost: No additional cost anticipated.
- Status: Proposal in preparation.
-
- 96-14 To revise the outdated prohibition against Federal employees trading with Indians. This proposal will clarify that only employees of the BIA and IHS are subject to restrictions with regard to buying, selling, or trading with Indian residents of Federal Indian reservations. Regulations would be authorized to protect Indians from undue influence because of the positions of BIA and IHS employees wishing to trade with them.

Special provision is made for independent review of transactions involving Indian property held in trust by the Secretary of the Interior.

Cost: No additional cost anticipated.

Status: Proposal in preparation.

- 96-15 To eliminate statutory provisions relating to termination of federally recognized Indian tribes. This proposal would repeal or amend laws relating to the termination of certain current federally recognized Indian tribes. These provisions are not, and have not been for some time, consistent with current Federal Indian Affairs policy. Examples are section 18 of the Act of August 31, 1964 (78 Stat. 738), relating to the Seneca Nation in New York and the Act of August 18, 1958 (72 Stat. 619), as amended by the Act of August 11, 1964 (78 Stat. 390), relating to Rancherias and Reservations wholly within California.

Cost: No additional cost anticipated.

Status: Proposal to be drafted.

- 96-16 To provide for the return of tribes to Federal civil and criminal jurisdiction under certain circumstances. This proposal would provide those tribes which have been subjected to state jurisdiction pursuant to P.L. 280 or certain earlier statutes, with the right to determine whether they should be returned to Federal and tribal jurisdiction.

cost: Not determined.

Status: Joint Interior and Justice Department proposal sent to OMB as substitute for S. 2010, 94th Congress.

- 96-17 To amend the Internal Revenue Code of 1954 to provide the same tax exemption and general tax treatment of Indian tribes as are afforded other units of government. States and local units of government receive certain advantages over entities in the private sector under existing Federal tax laws. This proposal would give Indian tribal governments the same advantages.
- Cost: Cost not determined.
- Status: Similar bill (H.R. 4089) favorably reported (95-843) by House Ways and Means Committee on Jan. 19, 1978.
-
- 96-18 To extend to Indian tribal government deposits the same amount of deposits insurance as provided to other public unit deposits. Under legislation enacted in the 93rd Congress, Federal, State, and local government accounts are insured for up to \$100,000 in FDIC insured banks, FSLIC savings and loan associations, and federally insured credit unions. This proposal will extend this higher than normal insurance coverage to the only units of governments in the United States left out of the higher insurance provision.
- Cost: No additional cost.
- Status: Proposal pending at OMB since 94th Congress.
-
- 96-19 To amend the Judgment Distribution Act (25 U. S. C. 1401 et. seq.) to relieve time deadlines imposed on tribal planning. This proposal would amend the Act to enable tribal governments to extend the time periods allowed for preparation of their plans for use of judgments awarded by the Indian Claims Commission. It would also preclude offsetting per capita amounts received by Indians by reducing or eliminating their benefits under Food Stamp and other federally assisted programs and make other amendments to the Act.
- Cost: Depends upon judgment plans each year.
- Status: Proposal submitted to Legislative Counsel during 94th Congress and nearing submission to OMB.

96-20

To make tribes eligible to receive donations of excess Federal equipment and other personal property. This proposal recognizes the special Federal interest in tribal government activities and will permit the turning over Federal equipment, etc., to tribes regardless of whether they happen to be receiving a grant.

Cost: No additional cost anticipated.

Status: Proposal being drafted.

96-21

To clarify the authority of BIA law enforcement personnel. This proposal would clarify the authority of BIA law enforcement personnel to carry weapons, and make arrests (with or without warrant) for violations of Federal and tribal laws, etc.

Cost: No additional cost anticipated.

Status: Proposal submitted to Legislative Counsel during 94th Congress. Partially included in S. 1437 as passed by Senate and now pending in House.

96-22

To amend the Indian Self-Determination and Educational Assistance Act. A number of amendments will be proposed to P.L. 93-638 to provide for problems or issues brought out during consultation and preparation of implementing regulations in their administration.

Cost: No additional cost anticipated.

Status: Proposal being prepared.

96-23

To authorize upon the request of a tribal government, the transfer of federally owned employee housing and other buildings, improvements and facilities to Indian tribes or leasing authorities and authorize the long term or other by the Secretary of the Interior of such transferred and federally developed housing, buildings, improvements, facilities necessary for operation of Interior Department programs and services for the tribe involved. This proposal would enable tribes to assume ownership of Federal

facilities serving them and maintain and operate them with the payments made by the BIA under negotiated long term leases. It would also enable tribes to develop such facilities and finance them on the basis of long term leases.

Cost: No additional cost anticipated.

Status: Proposal being prepared. We understand that the Indian Health Service made a similar proposal to HEW during the 94th Congress.

96-24

To authorize exclusion from "income and "resources" of general assistance and scholarships aid provided by the BIA and tribal governments. This proposal would provide for treatment under Federal or federally-assisted programs of BIA and tribal general assistance welfare payments on the same basis as comparable assistance provided by States and their local governments. It would also provide for treatment under Federal or federally-assisted programs of BIA and tribal financial aid to students on the same basis as aid under comparable HEW programs as provided in section 507 (82 Stat. 1014). Under current statutory interpretations such BIA or tribal financial assistance can be partially or entirely offset by reduction of financial assistance otherwise available to the individual or family involved.

Cost: HEW program costs would increase but the size of the increase has not yet been determined.

Status: Proposal to be drafted.

96-25

To authorize the supplementation by the Bureau of Indian Affairs of State welfare payments to Indians when the State program pays less than the standard adopted by the State pursuant to HEW requirements. The proposal would eliminate BIA welfare payments as "income" under federally assisted State welfare programs and preclude reductions in State payments because of the BIA payments.

Cost: Proposal not sufficiently developed to determine.

Status: Proposal being drafted.

96-26

To provide for concurrent jurisdiction by Indian tribes over offenses which are now under Federal jurisdiction. This would specifically include offenses by any person when committed against an Indian or his property within Indian country as defined in 18 USC 1151. The purpose of this Act would be to close the gap that now exists where offenses of this type, particularly in the misdemeanor category, are not being prosecuted because Federal Courts and U.S. Attorneys are unwilling to take action. It would not infringe on present State jurisdiction, which is limited to those situations where all parties to the offense are non-Indians.

Cost: No cost involved.

Status: Proposal being prepared.

96-27

To repeal the Act of January 24, 1923 (42 Stat. 1185) as amended by the Act of May 29, 1928 (45 Stat. 992). This proposal would repeal the requirement set out in 25 U.S.C. 377 that fees be calculated and charged for Indian trust estates probated by the Interior Department.

Cost: Loss of income will be offset by administrative cost savings.

Status: Proposal being prepared.